

Minutes of the Carlisle Board of Health
August 29, 2006
Approved: December 13, 2006

Present: Board members Martha Bedrosian (Chairman); Bill Risso; Michael Holland; Jeffrey Brem (arrived late); Leslie Cahill; Linda Fantasia (Agent); Rob Frado (TCG), and Laura Foley (Carlisle Mosquito)

The meeting was called to order at 7:30 p.m. at the town hall.

“FERNS COUNTRY STORE” - Larry Bearfield and Robin Emmons were present at the Board’s request for a discussion about (1) status of the proposed renovations; (2) classifying the well as a public water supply; (3) outside seating area; and (4) common victualler’s license.

Bedrosian referred to DEP’s letter dated 6/22/06 wherein DEP determined that the market renovations would constitute new construction. Since the septic system is significantly undersized, it will be difficult to bring it into compliance with new construction standards. Stamski & McNary had argued that since Title 5 defines new construction as an increase in flow, the market renovations would not qualify since the inside seating area would use a composting toilet and the retail and apartment design flows would stay the same. Bearfield said the engineer and architect are considering the options which include: doing nothing which is not commercially viable; turning the abandoned garage into a stand-alone market for beer and wine; giving up the lease. The deciding factor will be what makes sense economically.

As for the outside seating, Bearfield explained that it is about the same number of picnic tables as before; four benches and four tables. They have been grouped together on the new patio. There is no table service. Bearfield questioned how this area falls under Title 5? Fantasia explained that the patio eating area would fall under the Food Code. Rubbish disposal, table cleaning and sanitation in the patio area would be considered part of the permit to operate a food establishment. The Board’s inspector would look at the operation. Bearfield said that trash and maintenance will be handled on a regular basis as it is now. The patio use is only seasonal. He noted that there has been a significant improvement in the food service operation and the Board agreed. Bedrosian noted that if people stay longer because of the patio seating, restroom facility will become a problem. Under the septic permit, there are no public restrooms allowed at the market. Bedrosian said that rather than a “Ferns” problem, the availability of public restrooms is a town problem. Currently visitors looking for a restroom are sent to the Library. The Library septic system is older and may not be able to handle an increase in use. Replacing the Library system will be a major expense for the town. The Library Director has been asked to watch the meter flows to see if there is an increase. The septic tank is being pumped twice a year as a precaution. Cahill noted that the town park adjacent to Ferns is being renovated. This will be another place for people to congregate. The Board agreed that the need for a public restroom in the center is a town problem and not easily solved. The Selectmen should look into this issue.

Bearfield then asked whether turning the garage into a store would be allowed. The Board agreed that any proposed changes should be reviewed by DEP. The Board noted that renewals for the Common Victualler’s License have not been submitted to the Board of Health since the original application in 2004. The license was automatically renewed even though it did not carry a Board of Health sign off. Bearfield assumed that this was done because the Selectmen were aware that a Permit to Operate a Food Establishment was issued annually by the Board of Health. Having two sign offs on the same issue would be unnecessary duplication. He will make sure that the license application is submitted to the Board of Health in December.

As for the public water supply, Bearfield explained that when they first began the new operation, a state inspector visited the site. He said he would get back to Bearfield on how to handle the question of whether the private well should be classified as a public water supply. Bearfield has not heard anything. Bedrosian noted that the 6/22/06 DEP letter refers to the private well as an “unregistered” public water supply. The Board asked Bearfield to keep it updated on what DEP decides.

In summary, the Board agreed that the outside seating area did not constitute a new use; Bearfield needs to follow up on the well classification and inform the Board, have DEP review any renovations, and submit the annual Common Victualler's application to the Board.

PH CONTINUED 13-56 PAGE BROOK ROAD – Richard Buck, applicant. Plan entitled: “Sewage Disposal Plan, Page Brook Road, Map 13, parcel 56, designed by Stamski & McNary, revised 8/18/06 (Potential Vernal Pool Area)”. Waiver requested: 15.211 Distances: SAS 75’, Septic Tank 65’ to wetlands, 100’ required.

Present for the hearing was Richard Harrington (SMI), Lauren Usilton from J & R Products, and a number of abutters.

Harrington referred to his 8/25/06 letter which describes the legal status of the lot, the question of hardship, benefits of the Micro-FAST system, and granting a waiver for new construction. The only change to the revised plan is the location of a certifiable vernal pool. Harrington offered to have Usilton describe the benefits of the Micro FAST system. The Board did not feel this was necessary since they are familiar with this technology which has General Use approval from DEP and is being used in other systems in Carlisle.

Harrington presented the Board with copies of the deed which created the lot in 1965 and refers to the registered and unregistered portions as “one building lot”. He said that it is not possible to site a system in full compliance with local regulations. The design meets all the Title 5 requirements. If the Board denies the permit, it will deprive the owner its use as a residential lot. Test data on the Micro FAST shows significant decrease in the levels of BOD, TSS, Coliform and nitrogen compared to a conventional system. This mitigation equates to the additional protection sought in the local regulations. Harrington also noted that the DEP Certification allows a 50% reduction in leaching area for new construction. The Board could use this reduction to increase the setback to wetlands.

In general the Board agreed on the following: whether the technology works is not an issue; the Board accepts that it does. The Board is satisfied that the lot was created prior to the current regulation. As for the question of granting variances for new construction, the current Board is in no way constrained by a previous Board's decision. Each decision must take into account the specifics of the site.

Bedrosian then asked for individual comments. Cahill was in favor of staying with the Board's policy of not granting waivers for new construction. Such a policy safeguards the intent of the regulation which is to protect the groundwater supply. Risso said he was undecided about granting the waiver. He is debating whether the Board still needs its local regulations, particularly in areas involving wetlands, or whether Title 5 now provides adequate protection. The Board will be revising its local regulations in light of the new Title 5, particularly with regard to setbacks and garbage grinder allowances. If the applicant is willing to wait, a waiver may not be necessary. Holland said he was a proponent of revising the local regulations. Title 5 is based on technical data and scientific research. Local regulations are intended to address specific deficiencies in the state code. The current code is a significant improvement over the original Chapter 11 which had one size for all leaching areas. There have been many other improvements to the Code through the years. He is not concerned that the I/A system will not work; it is a proven technology. He is more concerned about the potential wetland impacts for such a marginal lot. The Conservation Commission is currently reviewing the project, but has not made a decision. The septic system is located in the only area outside of the buffer zone and riverfront area. Construction of the house, driveway, and yard, along with normal use of the property, will have a detrimental impact.

Bedrosian questioned why the Board of Health should make its decision prior to the Commission's since the wetland issues are so important. Even if the septic system complies with State Sanitary Code the development of the lot undermines the goals of the Wetland Protection Act. Holland agreed stating that although the septic system will not degrade the wetlands, the septic system should not be the only issue considered by the Board. Board of Health approval of a septic permit does not reflect that the project meets the expectation of protecting the environment. If the Board of Health votes to issue a septic permit, this permit in no way constrains the Conservation Commission from a full and prudent review of the wetland

issues. Holland would want to add a specific comment to this affect in any approval. Cahill sees the local regulations as a means of providing additional protection rather than minimal compliance. Bedrosian said the Board of Health should not feel constrained to only look at the septic design, but has every right to consider and comment on the overall environmental impacts.

The Board then asked for comments from the audience. Chad Carpenter (143 Page Brook Road) said the 100' setback is there for a reason. This is a very limited lot. There is only enough good land to support a septic system or a house, not both. At what point does the Board decide where to stop - 75', 50'? The Board should stay with its regulations. If the board accepts the applicant's argument of manifest injustice, many other marginal lots will seek the same relief. The lot was classified as unbuildable. The owner has had the benefit of lower taxes for years. Carpenter questioned how it could so easily be classified as a profitable building lot? Dave Reed (90 Page Brook Road) explained that the original classification was based on lack of frontage. This was proven not to be the case. Reed submitted aerial photos of the lot showing the wetland delineation line. He disagreed with the results of the delineation based on his own calculations and personal knowledge of the lot. Water is closer to 65' from the system, rather than the proposed 75'. Harrington noted that the Conservation Commission had signed off on the delineation following a peer review. The location of the house is limited by the 40' zoning offset. Everything that could be done to mitigate development has been done.

John Manzanelli, representing the seller, asked the Board to consider special circumstances relative to the finances of the owner and why it is important for the sale to proceed. The Board, while sympathetic, explained that its decision must be based on the application as presented. Extenuating family circumstances cannot influence the Board's decision.

Following further discussion the Board agreed on the following findings:

- The Board is reluctant to grant a waiver for new construction because of its long standing policy.
- The need for a waiver may be eliminated or overcome if the local regulation on setbacks either defers to Title 5 or reduced by means of alternative technology.
- The Micro-FAST system is certified for General Use by DEP but does not overcome the Board's concern about the ability of the site, which has significant wetlands, flood plain, and river front functions, to support a single family home and all of the ancillary uses.
- It is premature for the Board of Health to approve the proposed septic design before the Conservation Commission has made its decision.
- According to the engineer, there is no additional design work that would benefit the site.

It was moved (Cahill), seconded (Risso) and unanimously voted (4:0) to close the public hearing.

It was moved (Cahill), and seconded (Risso) to deny the request for a waiver to allow the construction of a soil absorption system in accordance with the plan entitled "Sewage Disposal Plan, Prepared for Richard Buck, Location Page Brook Road, Map 13, parcel 56, designed by Stamski & McNary, revised 8/18/06" in that the applicant has not proven to the Board's satisfaction that denial of the permit would be manifestly unjust or that the proposed design provides an equivalent or greater amount of protection for the site overall. Vote: Risso – yes, Cahill – yes, Bedrosian – yes, Holland – yes. Motion carries.

43 ROCKLAND ROAD – bedroom addition. Present for the discussion was Geoffrey Freeman and Margie Findlay, owners.

Freeman explained that he had purchased the property in 2005 with the intention of renovating and renting the small house. A new, three bedroom septic system was installed in 2004. As part of the renovations, a second floor was added to accommodate two bedrooms. A first floor bedroom was converted into a study. The Building Inspector will not issue an occupancy permit until he has a Board of Health sign off. Apparently the building plans were never reviewed by the Board of Health. There is now a question of whether the study should still be counted as a bedroom. This would result in more bedrooms than allowed by the septic permit.

The Board reviewed the floor plan. Freeman, an architect, argued that the study should not be counted as a bedroom. It has no closet. It will act as a family room in the small house. The Code requires that a bedroom be "intended for sleeping". This will not be the case. Freeman's purpose in renovating the house was to preserve moderate style housing in town. The lot is only .8 acres so it is already limited as a legal non-conforming lot. It is not possible to expand physically. Frado agreed it was a difficult lot to site the current system. The Board explained that the room still meets the definition of a bedroom in Title 5. It has the potential to be used as a fourth bedroom by a future owner. The Board suggested a deed restriction limiting the total number of bedrooms to three. Freeman was opposed to the restriction which requires a Title 5 Inspection every three years. The Board said that it can eliminate this condition since it is a new system. Freeman agreed to record a deed restriction.

It was moved (Holland), seconded (Risso) and unanimously voted (4:0) to issue a deed restriction for 43 Rockland Road, map 15, parcel 59, Carlisle, MA, limiting the number of bedrooms in the house to three in keeping with the septic system capacity, and eliminating the condition that the system have a Title 5 Inspection every three years since the system was installed in 2004.

21-23 BEDFORD ROAD – renovation and addition. Present for the discussion were owners Laura and Peter Chelton, architect Holly Cratsley.

The antique house located in the center is currently vacant. It is a legal two family house and attached barn. The barn is in need of immediate repair. The Cheltons are proposing to renovate the entire interior of the structure by re-arranging rooms and converting the barn into living space. The apartment will be renovated for elderly parents. The house was purchased in 2005 and sits on one-half acre. The septic system passed the Title 5 Inspection with the exception of the septic tank which was cracked. Two new 1500 gallon tanks were installed in 2005. At the time, the design engineer estimated a four bedroom septic system. There is no permit information or plan on file with the Board of Health. Frado thought there was an intention of enlarging the system which is why the tanks were oversized.

According to the Cheltons, there were eighteen rooms in the house when they bought it. Fantasia said a floor plan submitted in 2005 has eleven rooms. This did not include two rooms on the third level. The floor plan submitted by Cratsley in July shows fourteen to sixteen rooms. It is not clear whether all of the rooms are finished, heated and of sufficient size. The proposed work includes adding a new garage under an existing deck to the rear. The Board noted that if the existing system only has a four bedroom capacity, it is significantly undersized. This would have to be addressed before the Board could approve the renovations. The existing house would not even qualify for a deed restriction based on the Board's policy. Another critical issue to be addressed is nitrogen loading. Title 5 allows 440 GPD per one acre when the lot contains a private well. The Chelton lot is only .5 acres. It may not be possible to expand the system.

The Board agreed that before it could give any direction on the proposed renovations, it would need to know exactly what is there for the soil absorption system. The Board advised the Cheltons to hire an engineer to calculate existing capacity and come up with a plan on how the system could be sized to accommodate the renovations. Frado said this could be done with some preliminary field investigation. The Board also suggested that the Cheltons consider revising the floor plan by eliminating smaller rooms. Nothing can be decided until the Board has an engineering assessment. The Cheltons agreed to look into this for the next meeting. Fantasia asked if they could get a building permit to do the repairs on the barn which is unstable. The Board agreed as long as the work did not contain finished space.

Todd Arnow (11 East Street) said he is concerned about the intensity of use of this property and throughout the center. He was surprised that there might be eighteen rooms in the house. He is very much concerned about development in the center which includes the renovations at Ferns, Center Park plans, and the Chelton residence. He asked that the Board consider the overall impacts to the center rather than just looking at a single application. This is particularly important on anything that impacts water quality. The center water supply is already affected with MTBE.

DISCUSSION ITEMS

69 AARON WAY – Groundwater interceptor drainage issue. There was no one present for the discussion. The matter was tabled. Fantasia said the abutter is interested in working with the owner on the problem.

CARLISLE FARMSTEAD CHEESE (Holland recused himself from discussion) – the Board issued a Milk Pasteurization License to Tricia Smith and Michael Holland. Milk products were last tested by the state on 6/13/06. No violations were noted.

BILLS – It was moved (Risso), seconded (Bedrosian) and unanimously voted to approve the bills as presented for payment.

CENTER PATHWAYS – poison ivy is a problem for the volunteers. The subcommittee would like the Board to recommend how to deal with it. The Board agreed that it should be removed by mechanical means or by hand. The Board does not want to allow the use of pesticides under any circumstances.

COVENTRY WOODS – The Board was asked to comment on a well testing standard “Ordinance #214 – An Ordinance Regulating The Testing of Wells for New Developments” used in a community in Wisconsin to measure adverse impacts on abutting wells. Board member Michael Holland was not in agreement with the measurement standard which he felt was intended for a gravel aquifer. He suggested the standard suggested by the proponent’s engineer would be most helpful. He further noted that the state will review all of the data from the eight abutters’ wells during the pump test of the Coventry Woods wells.

CENTER PARK SITE REVIEW – the Board is required to comment on waste disposal and water supply. The municipal site is being landscaped by a private non-profit group. No structures are proposed other than park benches. There are no plans for an irrigation well or water supply. The Board agreed however that this might be an opportunity to introduce the idea of public restrooms to the Selectmen. A memo will be sent to the Planning Board and Selectmen. (Brem arrived)

ANIMAL INSPECTOR STIPEND – Larry Sorli would like to increase the inspection fee which was set in 2004 at \$15.00. With the cost of gasoline, this no longer provides a sufficient stipend. Fantasia checked with Assessors. They only tax horses \$12 each. They do not tax chickens and goats because the cost of collecting outweighs the proceeds. Previously barn owners were concerned about being double taxed. The Board agreed to increase the fee to \$25.00.

It was moved (Bedrosian), seconded (Brem) and unanimously voted (5:0) to increase the fee for barn inspections from \$15 to \$25 for the 2006 license year.

WARRANT ARTICLES: The Board agreed to submit an article increase the spending cap of the 53E ½ from \$50,000 to \$75,000 and to increase the fee for camp renewal license from \$10 to \$50, the most allowed under statute.

There was no further business discussed. Meeting voted to adjourn at 10:25 pm

Respectfully submitted,

Linda Fantasia
Recorder